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**FISCAL IMPACT STATEMENT**

**LS 7337**

**BILL NUMBER:** HB 1007

**NOTE PREPARED:** Apr 21, 2011

**BILL AMENDED:** Apr 20, 2011

**SUBJECT:** Tax Incentives.

**FIRST AUTHOR:** Rep. Messmer

**FIRST SPONSOR:** Sen. Hershman

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Enterprise Information Technology Equipment*: This bill extends until January 1, 2017, the authority for a county or municipality to provide a tax exemption for enterprise information technology equipment.

*Alternative Abatement Schedule*: The bill authorizes a designating body for property tax abatement deductions to provide an alternative abatement schedule. It requires the alternative abatement schedule to specify the percentage amount of the deduction for each year of the deduction. It also provides that the alternative abatement schedule may not exceed 10 years.

*Hiring Incentives*: This bill authorizes cities and counties to pay hiring incentives for new employment in their jurisdictions. Provides that the hiring incentives may not exceed the local option income taxes paid by the new employees.

*Amended Personal Property Returns*: This bill extends the time for amending a personal property tax return from six months to one year from the date the original return was filed or the extension date, whichever is later. It provides that if an amended personal property tax return is filed between six months and one year after the filing date or the extension date, whichever is later, the taxpayer's refund or credit, if any, is reduced by 10%. The bill also provides that if the credit to which a taxpayer is entitled as the result of filing an amended property tax return exceeds \$25,000, a county auditor may carry the credit forward.

*Venture Capital Investment Tax Credit*: The bill increases the maximum amount of tax credits available under the venture capital investment tax credit for the provision of qualified investment capital to a particular qualified Indiana business from \$500,000 to \$1,000,000 for calendar years after 2010. It requires investments

eligible for the venture capital investment tax credit to be made before January 1, 2015, instead of January 1, 2013. The bill also suspends, beginning July 1, 2011, and ending June 30, 2013, the application fee allowed in current law for applicants seeking certification for the venture capital investment tax credit.

*Clark and Floyd County Innkeeper's Tax:* This bill changes the membership of the Clark County and Floyd County special funds board of managers and it specifies that the open door and public record laws apply to the board of managers. It requires the publication of financial information and an annual report. It also provides that recipients of Clark County and Floyd County innkeeper's tax revenues are required to submit a report to the board of managers when requested by the board of managers.

*White County Commission & Promotion Fund:* The bill authorizes the county council of White County to increase the county's innkeeper's tax rate to not more than 5%. It provides that tax revenues from any increase must be used to promote conventions, tourism, and economic development in the county and it provides for the establishment of a county promotion fund for deposit of the tax revenues and a commission to administer the fund.

*Nashville Food and Beverage Tax Sunset:* This bill extends the Nashville food and beverage tax to 2022.

*Tobacco Tax on Moist Snuff:* The bill provides that the tobacco products tax on moist snuff is based on the weight of the moist snuff and calculated at the rate of \$0.40 per ounce.

*Cigarette Minimum Pricing:* This bill provides that for purposes of determining state minimum cigarette prices, the cost of doing business by is presumed to be 10% (rather than 8%, under current law) of the basic cost of cigarettes.

*Licensees on Tax Warrant List:* This bill provides certain licensees will be required to receive a clearance from the department of state revenue (DOR) if the licensee is on DOR's most recent tax warrant list instead of the licensee having a delinquent tax liability.

*Retail Merchant Certificate:* The bill provides that the DOR may not renew a registered retail merchant certificate if the retail merchant is delinquent in remitting withholding taxes. It also provides that the DOR may revoke a retail merchant certificate of a taxpayer if the retail merchant certificate fee is not paid.

*Corporation Filing Deadline:* This bill provides that a corporation that merges with another corporation has the same due date for filing its final annual income tax return as the corporation with which it merged.

*Advance Earned Income Tax Credit (EITC):* The bill eliminates the income tax withholding provision that allows a taxpayer to receive an advanced earned income tax credit.

*Port Authority Property Taxes:* This bill allows the DLGF to cancel any property taxes assessed against real property owned by a local port authority.

*Annual Reports:* The bill prohibits the DLGF from approving a budget until a taxing unit files a financial report with the State Board of Accounts in the immediately preceding year.

*Reassessment:* This bill corrects a reference to the date of the 2015 general reassessment.

*Property Tax Credit Appeals:* The bill establishes a procedure for a taxpayer to appeal an error in a circuit

breaker or other property tax credit.

*Maximum Permissible Levies and Rates:* This bill changes the methodology for: (1) a civil taxing unit's maximum permissible ad valorem property tax levy for the ensuing calendar year; and (2) adjusting a maximum permissible property tax rate after a reassessment that does not result in an increase in the assessed value of a taxing unit. The bill repeals certain provisions concerning civil government property tax controls.

*Maximum Permissible Levies – School Bus Replacement Fund:* This bill provides for the DLGF to review the school bus replacement levy for 2012 for reasonableness.

*Tax Statements:* The bill allows a treasurer to include a statement of delinquent taxes and special assessments, interest, and penalties on a provisional statement or reconciling statement.

*Tax Distribution For Funds Exempt From Circuit Breaker:* This bill specifies that the full amount of property taxes imposed after being approved in a referendum shall be deposited in the fund for which the property taxes were imposed without reduction for the circuit breaker credits granted to taxpayers. It provides that if the debt service fund has a deficiency as the result of the application of circuit breaker credits, the amount of the deficit may be transferred from other funds.

*LOIT:* The bill requires certain surplus local option income tax revenue to be used as property tax replacement credits.

*School CPF and Bus Replacement Plans:* This bill provides that a school corporation's capital projects plan and school bus replacement plan must be adopted before November 1 (rather than September 1, under current law).

*Personal Property:* The bill provides that for property taxes payable in 2011 and 2012 for personal property that was transferred under the federal Troubled Asset Relief Program (TARP), the historical cost shall be reduced by 30% and the minimum valuation rules for depreciable do not apply.

*Interim Study Committee on Economic Development:* This bill Extends the Economic Development Study Committee to December 31, 2014. It also requires the study committee to determine methods for eliminating or reducing the personal property tax statewide.

*IEDC Reports and Studies:* The bill requires the Indiana Economic Development Corporation (IEDC) to collaborate with local economic development organizations and submit an annual report to the study committee regarding collaboration. It requires the IEDC to conduct a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.

*Entrepreneurship Education Programs:* This bill requires the State Board of Education, the Commission for Higher Education, and the Department of Workforce Development to work together to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.

*Sales Tax Collection Allowance for Certified Service Providers:* The bill permits the DOR to negotiate a collection allowance for the collection of sales taxes by an out-of-state seller.

*Taxpayer Protests:* This bill provides that a protest may be filed against a decision of the DOR and provides a taxpayer 90 days to appeal the department's decision on the protest. It provides that a claim for a sales tax refund must be filed within one year if the claim is based on the predominant use of electrical energy, natural or artificial gas, water, steam, or steam heat by certain businesses or based on the sales tax exemption for these services or commodities.

*Corporate Income Tax Reduction:* The bill decreases the corporate income tax rate from 8.5% to 6.5% effective July 1, 2012.

*Exclusion of Interest on State and Local Bonds:* This bill provides that the adjusted gross income tax and financial institutions tax (for investment companies) apply to interest on bonds issued by a state other than Indiana or by a political subdivision of such a state.

*Attribution of Business Income to Indiana:* The bill restates the attribution rules applicable to business income from certain intangibles under the adjusted gross income tax.

*Net Operating Loss (NOL) Carryback:* This bill eliminates the carryback of net operating losses under the adjusted gross income tax.

*Sunset of Tax Credits:* The bill expires the teacher summer employment income tax credit on January 1, 2012. It specifies that a maternity home tax credit may not be awarded for the providing, after December 31, 2011, of a temporary residence. The bill provides that a tax credit may not be awarded for making available, after December 31, 2011, a health benefit plan. It also provides that a small employer qualified wellness program tax credit may not be awarded for costs incurred after December 31, 2011.

*Delaware County Community Revitalization Enhancement Districts (CREDs):* This bill removes restrictions on activating a third community revitalization enhancement district in Delaware County. The bill caps the total amount of state taxes annually captured by the three Delaware County districts at \$2,000,000.

*New Community Revitalization Enhancement Districts (CREDs):* The bill specifies certain requirements for the designation of any CRED after December 31, 2010.

*Other Revenue Topics:* The bill removes outdated individual income tax adjustments. It extends the time in which a person must file an amended Indiana adjusted gross income tax return to reflect modifications made in a federal income tax return. It also prohibits the DOR from taking an action to collect a delinquent tax until the later of the expiration of the time for filing a tax appeal or the making of a final decision in a tax appeal.

*Redevelopment Financing:* This bill permits local governments to pledge revenue from the county adjusted gross income tax and the county economic development income tax for redevelopment financing.

*Technology and Innovation Commercialization Programs:* The bill requires higher education institutions to expand technology and innovation commercialization programs.

*Regional Development Authorities:* This bill provides that if a county or a municipality becomes a member of a regional development authority (other than the northwest Indiana regional development authority) after June 30, 2011, and before July 1, 2013, the amount of money that must be transferred annually by the county or municipality is equal to the amount that would be distributed to the county or the municipality from a county economic development income tax rate of 0.025%.

*Public Safety LOIT:* The bill provides that a fire department, volunteer fire department, or emergency medical services provider that provides fire protection or emergency medical services within the county and is operated by or serves a political subdivision that is not entitled to receive a distribution of the public safety local option income tax (LOIT) tax revenue may apply to the county council (in a CAGIT county) or the county income tax council (in a COIT county) for a distribution of the tax revenue. It provides that the county council or county income tax council may adopt a resolution requiring that one or more of the applicants shall receive a specified amount of the public safety LOIT tax revenue. The bill requires that any public safety LOIT tax revenue distributed in this manner shall be distributed before the remainder of the tax revenue is distributed to the county and to the municipalities in the county. It also specifies that a municipality is entitled to receive a distribution of public safety LOIT revenue only if the municipality is carrying out or providing at least one of the public safety purposes listed in the LOIT statute.

*Oil/Gas Interests:* This bill provides an exception to the confidential nature of information regarding an oil or gas interest for tax sale purposes. It requires an assessing official to make available certain information necessary to properly identify and determine the value of an oil or gas interest that is eligible for tax sale.

*Tax Warrants:* The bill provides that if the DOR determines that the filing of a tax warrant was in error, the circuit court clerk of each county where the warrant was filed shall expunge the warrant from the judgment debtor's column of the judgment record.

*Local Option Dog Tax:* This bill legalizes an ordinance of a county adopted after December 31, 2006, and before February 1, 2007, that implemented a licensing system for dogs despite the fact that the county did not first adopt the county option dog tax.

*Assessed Value Increases:* The bill provides that in any review or appeal of an assessment in which the assessed value increased by more than 5% over the assessed value determined by the county assessor or township assessor (if any) for the immediately preceding assessment date, the county assessor or township assessor making the assessment has the burden of proving that the assessment is correct.

*Marion County Tax Levy:* This bill allows Marion County to impose a property tax levy in 2012 equal to the difference between: (1) the amount of family and children expenses paid by the county after the elimination of the family and children's fund property tax levy on December 31, 2008; minus (2) the property tax levy authorized by P.L.146-2008 (HEA 1001-2008) and imposed in 2009 for this purpose.

*Maximum Levy Adjustment - Washington Township, Allen County:* The bill permits Washington Township in Allen County to request an adjustment to the maximum permissible property tax levy for 2012 to offset the use of cash balances in a prior year. It limits the request to the levy reduction that occurred to the civil taxing unit's maximum permissible property tax levy in the year following the year the unit used cash balances and it requires the DLGF to make the adjustment.

*Excessive Levy Appeals:* This bill provides that an excess levy appeal by a civil taxing unit may not be denied solely because of the amount of the civil taxing unit's cash balances, if those cash balances do not exceed 20% of the amount of the most recent budget approved for the civil taxing unit.

*Maximum Levy Adjustment - City of Goshen:* The bill provides that the maximum property tax levy for the city of Goshen is increased by the amount by which the city's total pension costs in 2009 exceed certain amounts.

*Maximum Levy Adjustment - Jefferson County:* This bill authorizes an excess tax levy for Jefferson County if the DLGF finds that the county experienced a property tax revenue shortfall that resulted from an erroneous estimate of the effect of the supplemental deduction on the county's assessed valuation. It provides that the maximum increase in the county's levy that may be approved is \$300,000.

*Maximum Levy Adjustment - Lake Central Schools:* The bill makes an adjustment to the maximum transportation fund property tax levy for the Lake Central School Corporation.

*Commission on State Tax and Financing Policy:* The bill requires the Commission on State Tax and Financing Policy to study certain issues.

*TIF:* This bill provides that property taxes on depreciable personal property on the site of operations of a designated taxpayer may also be allocated for purposes of tax increment financing (TIF) if the taxpayer's property in the TIF allocation area will consist primarily of regulated amusement devices and related improvements. (Under current law, property taxes on depreciable personal property may be allocated for TIF purposes only if the taxpayer's property in the TIF allocation area will consist primarily of industrial, manufacturing, warehousing, research and development, processing, distribution, or transportation related projects.)

The bill also removes the requirement that the Indiana Economic Development Corporation (IEDC) approve enlargements of tax increment financing districts.

*Nonprofit Hospitals:* The bill requires a nonprofit hospital to file its annual community benefits plan with the State Department of Health at the same time the nonprofit hospital files its annual information return with the Internal Revenue Service.

*Wabash River Enhancement Corporation:* This bill deletes the provision in current law prohibiting the Wabash River Enhancement Corporation from using any of its Tippecanoe County innkeeper's tax distributions for employee salaries or other ongoing administrative or operating costs.

*Lake County Innkeepers Tax:* The bill changes the Lake County innkeepers tax to add members to the convention and visitor bureau in Lake County, to specify that the tax applies to the renting or furnishing of room for periods of less than 30 days by the same party in the same room, to broadens the funds into which innkeepers' tax revenue may be deposited, to change the budget and financial reporting deadline.

*Bonding for Unemployment Trust Fund Advance Repayment:* This bill provides that the Indiana Finance Authority may bond to return advances received from the federal Unemployment Trust Fund before July 1, 2011. It provides that the authority may not issue bonds under these provisions after June 30, 2013 and provides that the Department of Workforce Development may enter into agreements with the authority to make lease payments or other payments permitted by law. The bill provides that the bond proceeds, including investment income, shall be held in trust to: (1) repay the principal and interest of previous advances from the federal trust fund; (2) pay the costs of issuing the bonds; (3) provide a bond reserve; and (4) pay capitalized interest on the bonds. It also requires the authority to obtain a legal opinion setting forth a determination that bonds may be issued under these provisions.

*Fire Protection Territories:* The bill indicates that the delivery of services through a fire protection territory is not considered a municipal service for zoning outside the boundaries of the municipality. It specifies that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing

the unit to join or establish a fire protection territory if that member is also an employee of a participating unit or is proposing to become a participating unit. The bill specifies different tax rates may be levied for the participating units included within the territory. It also specifies additional actions in order to become part of a fire protection territory and expires these additional requirements July 1, 2012.

The bill also requires the DLGF to review the tax rates and levies for each fire protection territory that is located in Hancock County and whether different tax rates for fire protection services should be applied for the participating units included within the territory.

*Public Works Projects:* This bill increases the cost of projects that may be performed without awarding a public works contract. It requires certain public works contract provisions for a public works project of more than \$1,000,000. The bill specifies notice and public meeting requirements that must be satisfied before a public work project with an estimated cost of more than \$100,000 may be performed by the workforce of a municipality, county, state agency, or state educational institution. It adds requirements for examination reports prepared by the state board of accounts concerning certain public work projects. It also increases the cost threshold at which bids and quotes are required under the local public works statute.

*Transfer of Property to Exempt Entity:* The bill provides that the circuit breaker credit and certain property tax deductions are to be allowed in the year of a property transfer if the property is determined to be exempt in the year following the transfer year.

**Effective Date:** January 1, 2010 (Retroactive); March 1, 2010 (Retroactive); January 1, 2011 (Retroactive); Upon Passage; May 15, 2011 (Retroactive); July 1, 2011; October 1, 2011; January 1, 2012; July 1, 2012.

**Explanation of State Expenditures:** *Department of State Revenue (DOR)* The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes made by the bill. The bill would also increase administrative expenditures by the DOR by requiring the DOR to adopt rules to establish standards for granting monetary allowance to certified service providers and sellers. The bill contains several clarifications or cleanup provisions that have minimal or no impact. The DOR's current level of resources should be sufficient to implement these changes.

*Hiring Incentives:* The IEDC would be required to compile an annual report based on the reports received from qualified units and to submit that report to the Legislative Council.

*Venture Capital Investment (VCI) Tax Credit Application Fee:* This bill suspends the VCI Tax Credit application fee of \$200 for FY 2012 and FY 2013. On average, the amount collected annually from the application fee is about \$9,000. Because this fee is included in the IEDC's operating budget, they will experience a decrease in funding. Since CY 2003, the IEDC has collected \$68,800 in application fees.

*White County Commission & Promotion Fund:* The State Board of Accounts (SBOA) would have to examine financial records of the proposed White County commission. Political subdivisions that are not counties, cities, or certain towns with population above 5,000 are examined by the SBOA every two years. If the SBOA could examine the proposed commission's financial records within a day or two, the additional expenditure necessary for the SBOA to examine the commission would be minimal. Commission members that knowingly handle White County Innkeeper's Tax funds improperly would commit a Class D felony.

*Property Tax Credit Appeals:* Under this provision, the Indiana Board of Tax Review (IBTR) would be required to hear appeals regarding property tax credits. The IBTR's caseload could increase under this

provision.

*Interim Study Committee on Economic Development:* The bill establishes the Interim Study Committee on Economic Development for four years until the end of 2014. The Committee will consist of 17 members as follows: two Senators, two Representatives, the CEO of the Indiana Economic Development Corporation (IEDC) or the CEO's designee, four members appointed by the Governor, four members appointed by the President Pro Tempore of the Senate, and four members appointed by the Speaker of the House of Representatives. During the 2010 interim, the Legislative Council provided \$16,500 budgets for interim study committees with 16 or more members, including for the Interim Study Committee on Economic Development which was structured the same as in this bill. The Committee held two meetings in Indianapolis, one meeting in Anderson, and one meeting in West Lafayette at a total cost of \$6,355.

The Committee is to operate under the policies governing study committees adopted by the Legislative Council. The Committee must issue a final report before November 1<sup>st</sup> each year to the Legislative Council containing any findings and recommendations of the Committee.

*IEDC Reports and Studies:* The bill requires the IEDC to collaborate with local economic development organizations and submit an annual report to the Interim Study Committee on Economic Development concerning collaborative efforts. The IEDC is also required to conduct a statewide study to determine economic sectors that should be emphasized within geographic regions in Indiana. These provisions may increase expenses for the IEDC, but should be able to be accomplished within the IEDC's existing resources.

*Entrepreneurship Education Programs:* The bill requires the State Board of Education, the Commission for Higher Education (CHE), and the Department of Workforce Development (DWD) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force. This provision should be able to be accomplished within the existing resources available to the State Board of Education, the CHE and the DWD.

*Technology and Innovation Commercialization Programs:* This bill requires higher education institutions to expand technology and innovation commercialization programs. State educational institutions may need to reallocate resources from other programs or areas to meet this requirement.

*Commission on State Tax and Financing Policy:* This bill requires the Commission on State Tax and Financing Policy to study the following topics during the 2011 interim:

- (1) whether commercial rental property should for property tax purposes be valued by using the lowest valuation determined by applying each of the appraisal approaches used for determining the assessed valuation of residential rental property;
- (2) issues related to periodic or "rolling" reassessment;
- (3) whether a tax incentive for logistics and homeland security expenditures will provide a net gain in tax revenue and investment in Indiana;
- (4) whether county government should be granted the authority to exempt personal property;
- (5) differences between the eligibility of nonprofit entities for federal income tax exemptions and the eligibility of nonprofit entities for Indiana property tax exemptions;
- (6) whether property tax credits and deductions for residential property to which the seller of the property was entitled should be transferred to the buyer in the year of the sale if the property is determined to be exempt for the year following the sale year;
- (7) issues related to Medicaid fraud; and
- (8) issues related to the Earned Income Tax Credit.



The Commission must report its findings and any recommendations to the Legislative Council before November 1, 2011. The Commission on State Tax and Financing Policy is a statutory committee with members designated by the Legislative Council. As with other interim committees, the Legislative Council provides funding to the Commission for per diem, mileage, and travel expense reimbursement for Commission members. The Commission, like other interim study committees, is staffed by the Legislative Services Agency.

(Revised) *TIF*: Under this provision, the IEDC would no longer have to approve enlargements of TIF areas. The IEDC could redirect any resources that are currently being used for this function.

(Revised) *Bonding for Unemployment Trust Fund Advance Repayment*: The bill establishes a procedure for the issuance of bonds to repay the advances from the federal Unemployment Trust Fund to the Indiana Unemployment Trust Fund. The bill would establish the procedure for the Indiana Finance Authority to issue up to \$2 B in bonds with a term of 20 years to repay the loan. The annual payments at 4% would be about \$141.5 M per year. If the state chooses to bond, then the Indiana Unemployment Trust Fund is projected to have a positive balance in CY 2012. As the balance in the fund increases, the employer tax rate would decrease.

Currently, businesses receive a 5.4% credit on their federal unemployment insurance tax if the state has a state unemployment insurance program.. The credit is reduced by 0.3% each year if the amount the federal government has advanced the state increases. DWD estimates that amount to be about \$58.8 M in CY 2011 and to increase to \$176.4 M annually from CY 2011 to about CY 2017 when the current advance is projected to be repaid. Employers would also pay interest surcharge on the advancement. The surcharge is estimated to be \$76.8 in CY 2011 and decrease to \$2.2 M in CY 2017.

(Revised) *Fire Protection Territories*:

Review of Tax Rates. The bill directs the DLGF to review the tax rates and levies for each fire protection territory (FPT) in Hancock County that has a uniform tax rate throughout the territory. The DLGF would also determine whether different tax rates should be applied for the participating units within the territory.

Study Commission. The directs the Commission on State Tax and Financing Policy to study the formation process for territories, the establishment of tax rates and tax levies for territories, including tax rates for agricultural land and other pertinent issues. The Commission is to report its findings before November 1, 2011. There would be no additional expense to include this topic of study on its agenda.

(Revised) *Public Works Projects*:

Cost of Projects - DNR, DOA. Raising the limit from \$75,000 to \$150,000 could increase the number and types of projects that these agencies could complete using their own workforce. This could reduce their expenditures to the extent that they would not need to contract for additional outside services. For example, DNR's seasonal work cycle would allow staff to complete construction projects during winter months when public visitation to its properties is minimal.

The proposal would not require the agencies to complete all projects under \$150,000, but would provide them with the option to do so. The State Board of Accounts would have to verify that using their own workforce is cost effective.

In 2010, DNR bid 8 projects totaling \$822,618 that were in the cost range of greater than \$75,000 but less than \$150,000. In 2009 DNR bid 6 projects totaling \$648,776 in the same cost range. In 2008 DNR bid 7 projects totaling \$803,675 that were in the cost range.

Retention of Payments. This may increase the number of bids for projects whose estimated cost is between \$150,000 and \$1 M.

Examination Reports. The State Board of Accounts has to verify that it is cost effective for a state agency, state educational institution or political subdivision to use its own workforce to complete a project. The agency should be able to complete this task within its existing level of resources assuming near customary agency staffing and resource levels.

State Higher Educational Institution. Under current law, if a public works project is estimated to cost more than \$25,000, the sponsoring state agency has to adopt plans and specifications and award a contract to perform the work under a sealed bid process after advertising for bids. A state institution of higher learning can, however, either use its own workforce to complete the project, or invite bids from contractors if the estimated cost of the project is less than \$50,000.

This bill raises the threshold for a state institution either using its own workforce or inviting bids from \$50,000 to \$200,000.

If the institution chooses to use its own workforce, this would increase the number and types of projects that could be completed. This could reduce expenditures because the institution would not have to contract for additional outside services. The State Board of Accounts would have to verify that using its own workforce is cost effective.

On the other hand, if the institution decides to contract out the work, this would reduce the administrative expenses for those projects between \$50,000 and \$200,000.

Purdue University. Current law permits Purdue University to invite bids from three or more contractors instead of using the more extensive sealed bid process if the project is on agricultural or forestry land owned or occupied by the university, and is estimated to cost less than \$50,000. This bill would raise the limit to \$200,000. This would reduce the administrative expenses for those projects between \$50,000 and \$200,000.

Notification - DOA. State Higher Educational Institution: If the project is estimated to cost more than \$100,000 and DOA or the state institution of higher learning plans on using its own workforce, it would incur the costs of publishing the notices and administering the public meetings. This would be offset by the potential savings in having projects completed by its own workforce

**Explanation of State Revenues:** *Venture Capital Investment (VCI) Tax Credit:* This bill will likely decrease revenue to the state General Fund beginning in FY 2014 due to the extension of the VCI tax credit. The bill extends the tax credit by two years by changing the current expiration date from December 31, 2012, to December 31, 2014, allowing the IEDC to award up to \$12.5 M annually in new tax credits for two additional years beginning in tax year 2013.

The bill also increases the maximum amount of tax credits available for one taxpayer from \$500,000 to \$1 M beginning in tax year 2011. Although this change should not directly impact state revenue because of the

annual cap of \$12.5 M, it could affect the amount of tax credits claimed over the six-year period. If a taxpayer is able to use more of their tax credit amount for the first applicable tax year, then the timing of when credits are claimed could be impacted. Increasing the maximum tax credit amount will also affect how many taxpayers may receive tax credit awards. For example, 12 taxpayers could receive a maximum tax credit amount of \$1 M instead of 25 taxpayers receiving a maximum tax credit amount of \$500,000. This change would also benefit larger projects that are not currently eligible for the tax credit by increasing the maximum amount of venture capital investment eligible for the 20% tax credit from \$2.5 M to \$5 M.

State income tax return data for individuals indicates that about \$3.3 M in VCI tax credits was claimed by 490 individuals in tax year 2008. In 2007, about \$3.8 M was claimed by 430 individuals. No VCI tax credits were claimed by corporate taxpayers for tax years 2007 and 2008. The maximum tax credit claimed by individuals was about \$140,000 and \$160,000 for tax years 2007 and 2008, respectively. The credit may be applied to individual or corporate AGI Tax, Financial Institutions Tax, Insurance Premiums Tax, or Sales Tax liabilities. Revenue from the AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. Sales Tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.670%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

*White County Commission & Promotion Fund:* The SBOA charges political subdivisions subject to examination \$45 per day to examine financial records. A two-day examination would increase state revenues by \$90 every two years.

*Tobacco Tax on Moist Snuff:* This bill could have an indeterminable impact on Tobacco Products Tax revenue. Under current statute, all tobacco products are taxed at a rate of 24% of the wholesale price. The bill provides that the Tobacco Products Tax imposed on the distribution of moist snuff is based on the net weight of the moist snuff and calculated at a rate of \$0.40 per ounce. All other tobacco products other than moist snuff will continue to be taxed at 24%.

The existing tax on snuff is based on the value of snuff. The amount of revenue collected depends on the changes in quantity sold and the price. This bill proposes a tax that is based only on the quantity sold; all moist snuff products would be taxed based on weight without regard to price. As a result, the incidence of tax would shift from higher-priced moist snuff to lower-priced snuff. It is unknown what impact this would have on the total amount of tax that would be collected on these products.

*Minimum Cigarette Pricing:* This bill provides that for purposes of determining state minimum cigarette prices, the cost of doing business by the retailer is presumed to be 10% (rather than 8%, under current law) of the basic cost of cigarettes. The ATC estimated that this provision could potentially increase the minimum price of cigarette by \$0.10 per pack. There is no data available to determine how many retailers are currently selling cigarettes at the current minimum price that may be impacted by this increase. If the new minimum price ultimately increased the cost of cigarettes sold, there could be a reduction in cigarette tax revenue.

Of the Tobacco Products Tax revenue, 25% is distributed to the Affordable Housing and Community Development Fund. The remaining Tobacco Products Revenue and Cigarette Tax revenues are allocated to Medicaid reimbursements (2.46%), Cigarette Tax Fund (4.22%), the Mental Health Centers Fund (0.6%), the state General Fund (54.5%), the Pension Relief Fund (5.43%), the State Retiree Health Benefit Trust Fund (5.74%) and the Check-Up Plan Trust Fund (27.05%).

*Retail Merchant Certificate:* The bill provides that the DOR may not renew a registered retail merchant

certificate if the retail merchant is delinquent in remitting withholding taxes. This provision could lead to additional income tax collections. The magnitude of the impact is indeterminable but could be significant.

*Advance Earned Income Tax Credit (EITC):* The bill eliminates the income tax withholding provision that allows a taxpayer to receive an advance refund of the EITC beginning in 2011. This change will not impact the revenue loss from the EITC, as amounts formerly obtained through the advance refund feature would simply be claimed when the taxpayer files his or her tax return. The Federal advance EITC was eliminated beginning in 2011 under the *FAA Air Transportation Modernization and Safety Improvement Act of 2010* (P. L. 111-226).

The Indiana EITC is equal to 9% of the Federal EITC. The advance EITC allows a taxpayer who qualifies for the EITC and has at least one qualifying child to receive part of the credit in each paycheck during the year. The advance EITC essentially reduces Indiana income tax withholdings for the taxpayer and increases their net pay. From 2003 to 2008, the number of filers receiving the advance EITC ranged from 160 to 549, with the advance EITC amount ranging from \$21,882 to \$71,229. In 2008, a total of 480,544 filers claimed the EITC with credits claimed totaling \$58.9 M.

*Sales Tax Collection Allowance for Certified Service Providers:* The bill provides that the DOR may negotiate with a certified service provider or seller to provide monetary allowance that is greater than the Sales Tax collection allowance provided in IC 6-2.5-6-10 for the collection of Sales or Use Tax on sales, leases and rentals of goods and services made in a state that is member of the Streamlined Sales and Use Tax Agreement (SSUTA) or a jurisdiction that is not a member state. [A certified service provider is an agent certified jointly by the states that are signatories to the SSUTA agreement to perform all of the seller's sales tax functions]. To the extent that this provision leads to more compliance in Use Tax being paid on out-of-state transactions, revenue collected from Sales and Use Tax would increase. The extent of the increase is currently indeterminable.

Under current statute, all tangible personal property purchased out-of state is subject to a Use Tax. A person must pay the use tax directly to the State on the Income Tax form.

*Sales Tax Exemption for Utility Expenditures:* Under current statute, transactions involving electrical energy, natural or artificial gas, water, steam and steam heat are exempt from Sales Tax if the person acquiring the energy uses it in the direct production of goods. The bill provides that a refund claim based on this exemption may not cover transactions that occur more than 12 months before the date of the refund claim. By restricting the time period that refunds could be claimed, this bill could potentially result in an indeterminable decrease in the amount of Sales Tax refunds claimed. Any impact however is expected to be minimal.

*Corporate Tax Rate Reduction and Revenue Offsets:* The bill: (1) reduces the Corporate Adjusted Gross Income (AGI) tax rate from 8.5% to 6.5% effective July 1, 2012; (2) eliminates the exclusion for individual and corporate taxpayers for interest income from state and local bonds (except those issued by Indiana or Indiana local governments) beginning in tax year 2012; and (3) eliminates certain tax credits beginning in tax year 2012. The fiscal impact of these changes would begin in FY 2013. The table below reports the net impact on state revenue from these changes. The offset from elimination of tax credits assumes future credits on expenditures or investment made after 2011 would on average be consistent with credits claimed in recent years.

<b>Net Impact (in millions)</b>	
<b>Provision</b>	<b>FY 2013</b>
Corporate AGI Tax Rate Reduction	(77.7)
Elimination of Interest Exclusion	65.9
Elimination of Tax Credits	3.1
<b>Total</b>	<b>(8.7)</b>

The revenue loss from the corporate income tax rate reduction could potentially increase by an average of 1% to 2% per year after FY 2013. Revenue from the corporate AGI Tax is distributed to the state General Fund. The revenue loss estimate is based on the Revenue Technical Committee forecast (April 15, 2011) for the corporate AGI tax.

The elimination of the exclusion of interest income from state and local bonds (except those issued by Indiana or Indiana local governments) would affect revenue from: (1) the individual AGI tax; (2) the corporate AGI tax; and (3) the financial institutions tax (FIT) as it applies to investment companies. (Note: Under current statute, financial institutions other than credit unions and investment companies pay tax on interest from state and local bonds, including Indiana state and local bonds.) The total revenue gain in FY 2013 is estimated at \$65.9 M, with \$38.1 M coming from individual taxpayers and \$27.8 M coming from corporate taxpayers. The revenue yield from this change could potentially grow by an average of about 3% to 4% per year after FY 2013.

The bill sunsets the following five income tax credits: (1) the Teacher Summer Employment Compensation Credit; (2) the Maternity Home Tax Credit; (3) the Community Revitalization Enhancement District Tax Credit; (4) the Credit for Employers Offering Health Benefit Plans; and (5) the Small Employer Qualified Wellness Program Credit. The average annual total credits claimed under these tax credits during 2006, 2007, and 2008 was about \$3.1 M.

(Revised) *Attribution of Business Income to Indiana*: The bill clarifies the attribution rules applicable to business income and sales receipts from certain intangibles under the adjusted gross income tax in lieu of current statute that provides specific conditions under which income and receipts from intangible property are attributable to Indiana. The provision responds to the Tax Court's decision in *Riverboat Development, Inc. v. Indiana Department of State Revenue* (Cause No. 49T10-0506-TA-52), February 22, 2008. In this case, the Tax Court decided that income received by a non-Indiana pass through entity from its interest in an Indiana pass through entity is, under current statute, not taxable income for purposes of the adjusted gross income tax. Under the provision, it is expected that income in such circumstances would be attributable to Indiana and taxable under the adjusted gross income tax. This provision could potentially prevent additional revenue loss under current income attribution rules. The amount of revenue loss that might be prevented is indeterminable.

*Net Operating Loss (NOL) Carryback*: The bill eliminates carry back of NOL by individual and corporate taxpayers beginning in tax year 2012. Current statute allows taxpayers to carry back losses for two years. This change could potentially reduce carry back usage in the long run by business taxpayers, provided they are not able to deduct as much NOL over time without carry back. More likely, this change will not increase

the amount of income tax paid in the long run by businesses with NOL, since NOL not deducted in the year it is incurred could still be carried forward for 20 years. However, eliminating carry back of NOL would prevent business taxpayers from using NOL incurred during recessionary periods to obtain immediate refunds by amending returns and deducting these NOL amounts against tax liabilities for the year or two immediately preceding the recession.

While data is available showing the amount of NOL claimed annually by individual and corporate taxpayers, the amount of NOL carried back cannot be distinguished. From 2000 to 2008: (1) NOL deductions by individual taxpayers ranged from \$202.6 M in 2006 to \$432.5 M in 2008; and (2) NOL deductions by corporate taxpayers ranged from \$655.0 M in 2001 to \$9,688.6 M in 2006.

*Delaware County Community Revitalization Enhancement Districts (CREDs):* The bill makes the following two changes relating to Delaware County.

(1) The bill changes the limitation on the amount of incremental sales and income tax revenue that can be captured in the three Delaware County CREDs. Currently, Delaware County has three CREDs (Magna, ABB, and the BorgWarner plant), but current statute only allows two of the three to capture tax revenue up to \$1 M per year each. The bill changes this limit to \$2 M annually applicable to the combined revenue capture by all three CREDs. This change could potentially increase the annual revenue capture by the Delaware County CREDs provided that capture amounts would be less than \$2 M per year in any two of the CREDs. Distributions of captured tax revenue to the Magna CRED totaled \$77,227 in FY 2006; \$248,330 in FY 2007; \$299,829 in FY 2008; and \$247,228 in FY 2009. Revenue has not been captured by the ABB or the BorgWarner CREDs.

(2) The bill repeals a limit on the application of the CRED tax credit in the ABB and BorgWarner CREDs. Current statute provides that the CRED tax credit applies only to investment made in the CRED (ABB or BorgWarner) in which income and sales tax capture is allowed. The impact of this change is indeterminable. The change would be effective only through the end of 2011 when the CRED tax credit is eliminated under this bill.

*New Community Revitalization Enhancement Districts (CREDs):* The bill establishes local economic distress and site requirements that must be met for a new CRED to be established after December 31, 2010. Under the bill, an advisory commission on industrial development is prohibited from designating a CRED under current statutes allowing CREDs in specific local units, and a county or municipal council is prohibited from designating a CRED under current statutes allowing CREDs in first and second class cities, unless the body makes the following findings:

- (1) The average selling price of homes in the county or municipality has declined by 14% over a one year period within 4 years of the designation;
- (2) The unemployment rate was at least 10.4% in a calendar month in the year preceding the designation;
- (3) The proposed CRED contains a site suitable for revitalization that: (a) has a vacant industrial building of at least 1.3 M square feet of space; (b) the building contains at least 80,000 square feet of office space; (c) the site contains a reinforced pad suitable for expansion of at least 200,000 square feet; (d) the site is serviced by water treatment facility capable of treating all of the effluent discharged from the site; and (e) the site consists of at least 120 acres of land.

**Explanation of Local Expenditures:** *Hiring Incentives:* Employers would annually report, to the qualified taxing unit, the number of new jobs and the income tax revenue withheld from the employees in those jobs.

The qualified taxing unit would also be required to submit an annual report to the IEDC that contains:

1. The number of businesses receiving hiring incentives in the year;
2. The location of each business receiving hiring incentives in the year;
3. A summary of the local incentives provided to each business receiving hiring incentives; and
4. The number of jobs created and average salary paid by the taxpayers receiving hiring incentives.

*Clark and Floyd County Innkeeper's Tax:* The Clark and Floyd County Special Funds Board of Managers would have to produce an annual report before January 1. The report must contain the income and expenses of the board of managers and would have to be placed on a website maintained by the board managers.

*White County Commission & Promotion Fund:* An increase of the current 3% tax rate would require a commission to distribute a share of the innkeeper's tax revenue for economic development or the convention, visitor, and tourism industry in White County. Commission members would be reimbursed for necessary expenses for performing their duty. Expenditures recommended by the commission could only be made from the Promotion Fund in accordance with county fiscal body appropriation.

*Annual Reports:* Under current law, each local governmental entity must file an annual financial report with the SBOA within 60 days after the close of the entity's fiscal year. These entities must also annually file a compensation report with the SBOA.

Under this provision, the DLGF would be prohibited from approving any local budget appropriation for a governmental entity until that entity files an annual fiscal report for the preceding year. Additionally, appropriations would not be approved for counties, cities, towns, and townships until a compensation report is filed. Without an appropriation, the entity could not spend any money. This provision would encourage more timely reporting from some governmental entities.

*LOIT:* Under current law, counties may adopt a property tax relief LOIT at a rate up to 1%. Revenue generated from a property tax relief LOIT must be used to provide homestead credits, property tax replacement credits for residential property owners, property tax replacement credits for all taxpayers, or any combination of the three. Under this bill, if any excess property tax relief LOIT revenue remains after the payment of all credits in the year, the excess amount must be placed in a dedicated account and must be used to provide credits in subsequent years.

*Wabash River Enhancement Corporation:* This provision would allow the Wabash River Enhancement Corporation (WREC) to use its share of Tippecanoe Innkeeper's Tax revenue for WREC employee salaries and ongoing administrative/operating costs of the WREC. Current law does not allow for the revenue to be used for salary or operating costs of the WREC.

*(Revised) Lake County Lake County Innkeepers Tax:* This provision would allow the Lake County Convention and Visitor Bureau (CVB) to pay for the promotion of conventions, trade shows, and other tourism endeavors within Lake County from funds established by the CVB other than the CVB's "Promotion Fund". In addition, the bill would extend the annual report of disbursement of Innkeeper's tax funds to April 15<sup>th</sup>. The CVB, under current law, must have the report prepared by March 15. Secondly, the CVB would be able to prepare their annual budget for the following year before December 20. Current law requires the following year's budget to be prepared before September 1 of the prior year.

The number of members of the Lake County Convention and Visitor Bureau will increase from 15 to 19. The members of the Lake County Convention and Visitor Bureau serve without salary, but are compensated for

necessary expenses incurred in performance of their duties and must swear oaths. The composition changes as follows.

<b>Current Board</b>	<b>No.</b>	<b>Proposed Board</b>	<b>No.</b>
Executives of the eight largest municipalities	8	Executives of the five largest municipalities	5
		Executives of the seven largest towns	7
Appointed by the legislative body of the two largest municipalities	2	Appointed by the legislative body of the two largest municipalities	2
County Council appointments	2	County council appointments (changes requirements to a resident of the 5 <sup>th</sup> largest city and a resident of the 8 <sup>th</sup> largest town)	2
County Commissioner appointments	2	County commissioner appointments (changes requirements to one resident of the 6 <sup>th</sup> largest town and one resident of the 7 <sup>th</sup> largest town)	2
Lieutenant Governor appointment	1	Lieutenant Governor appointment	1
<b>TOTAL Members Current Board</b>	<b>15</b>	<b>TOTAL Members Proposed Board</b>	<b>19</b>

(Revised) *Fire Protection Territories:*

Establishing a Fire Protection Territory. Under current law, the legislative body of each taxing unit desiring to participate in a FPT must hold a public hearing to receive public comment on the proposed ordinance or resolution. After 2011, this bill directs the legislative body to hold two hearings before the resolution or ordinance can be adopted.

At the first hearing, the legislative body must make available to the public pertinent information on the proposed ordinance or resolution. This information must include the property tax levy, the property tax rate, the budget to be imposed during the first year of operation for each unit participating in the FPT, the estimated effect of the reorganization on future tax rates, levies, and annual debt service, a description of planned services and staffing levels to be provided, and a description of any capital improvements to be provided in the proposed FPT. At the second hearing, the legislative body would receive public comment on the proposed ordinance or resolution.

Taxing units desiring to establish a FPT would incur costs of compiling data on proposed budgets, property taxes, levies, personnel, and infrastructure costs for their constituents. The taxing units would also incur additional administrative costs of scheduling a second public hearing.

(Revised) *Public Works Projects:*

Board of Aviation Commissioners. Raising the limit from \$50,000 to \$150,000 could increase the number and types of projects that some boards could complete using its own workforce. This could reduce local expenditures to the extent that the board would not need to contract for additional outside services. The specific impact is unknown and will vary from board to board.

Cost of Projects - Political Subdivisions. Under current law, the governing board of a political subdivision (thereafter referred to as the board) has three options to choose from in determining how to



complete a public works project: use its own workforce, require sealed bids, or request quotes from three or more persons. The decision on which option to choose sometimes depends on the cost of the project; at other times it depends on the project cost and the population of the political subdivision. For example, the board may purchase or lease materials and use its own workforce if cost of the project is less than \$100,000. On the other hand, sealed bids may be required if the cost of the project will be at least \$75,000 and the project is in a city with a population of 35,000 or more.

This bill deletes the cost thresholds for the various political subdivisions. Instead, projects would be categorized based solely on their costs. Additionally, the cost threshold for a political subdivision using its own workforce is increased from \$100,000 to \$150,000.

Under this bill, sealed bids would be mandatory only for projects that would cost at least \$150,000, which is the same as under current law. For these projects there would be no fiscal impact. If the estimated cost would be between \$50,000 and \$150,000, the board would be permitted to choose between inviting quotes from at least three persons or using its own workforce; the option to use sealed bids would be discontinued. For these projects the fiscal impact would depend upon whether using its own workforce or requesting quotes from three or more persons would be more efficient than requiring sealed bids. For projects under \$50,000 the board would have the same options as under current law.

Notification - Local Units. If the project is estimated to cost more than \$100,000 and the county or municipality plans on using its own workforce, it would have to publish a notice and hold a public hearing to discuss the project. It would incur the costs of publishing the notices and administering the public meetings. This would be offset by the potential savings in having projects completed by its own workforce.

**Explanation of Local Revenues:** *Enterprise Information Technology Equipment:* Under current law, a county or municipal fiscal body may grant a property tax exemption for new enterprise information technology equipment owned by an eligible business by adopting a resolution by December 31, 2012. The term of the exemption, however, may extend beyond 2012 and must be set in an agreement between the designating body and eligible business. Under this bill, the fiscal bodies would have until December 31, 2016 to grant an exemption.

*Overall Impact of Abatements and Exemptions:* This bill would make several changes to existing property tax abatements and exemptions. The use of the abatements and exemptions and the parameters set for each one would be a local decision.

The overall impact of this bill is not known. If there is an increase in real or personal property investment, the new property could, at some point, be placed on the tax rolls. This could help spread the property tax burden and could possibly reduce some tax rates. However, if one assumes that the investment would be made with or without the incentive, an increase in abatements, deductions, or exemptions could cause a delay of the shift of the property tax burden from all taxpayers to the owners of the new property until the property is placed on the tax rolls.

*Alternative Abatement Schedule:* This provision allows designating bodies to use an alternative abatement schedule. The percentage of deduction and the length of the abatement, not to exceed 10 years, would be set by the designating body based on the following factors:

1. The total amount of the taxpayer's investment;
2. The number of new jobs created and the average wage as compared to minimum wage; and
3. The infrastructure requirements for the taxpayer's investment.

The use of an alternative schedule would be a local decision.

*Hiring Incentives:* Under this bill, a county or city that receives CAGIT, COIT, or CEDIT distributions could enter into a hiring incentive agreement with an employer. The incentive could be claimed only for new jobs. The taxing unit that provides the incentive would make determinations regarding whether jobs were relocated from one Indiana site to another. These jobs would not qualify for the incentive.

The agreement would specify the duration and amount of the incentive with the duration capped at 10 years. The incentive may be stated as a percentage of local option income taxes withheld and remitted by the taxpayer on behalf of the new employees who reside in the county and it may include a fixed dollar limit. This incentive would be paid by the authorizing county or city from that unit's share of the legacy CAGIT, COIT, or CEDIT distribution.

The amount of LOIT paid to employers as incentives under this provision would depend on decisions by the county or municipality. The foregone LOIT revenue would only affect the designating unit. The fiscal impact of this provision depends on local decisions.

*Amended Personal Property Returns:* Under current law, business personal property tax returns must be filed by May 15<sup>th</sup> of each year. The local assessor may grant an extension through June 14<sup>th</sup>. Taxpayers may also file an amended return within six months of the filing date or extended filing date if an extension was granted. Beginning with tax returns originally due on May 15, 2011, this bill would allow an amended return to be filed within the 12 months following the normal or extended filing date.

Currently, if an amended return is filed by July 15<sup>th</sup>, the tax bill payable in the following year reflects the updated values. If the amended return is filed after July 15<sup>th</sup>, the tax bill payable in the following year is based on the values reported on the original return. Overpayments, if any, are credited to the taxpayer's tax bill for the next tax year. If the credit amount exceeds the tax due, the remaining credit is applied to taxes due in the following year (the second year following the credit issuance). Credits remaining after the second year are refunded. Credits for overpayments reduce property tax collections in the year in which they are applied.

Under this bill, a credit that is less than \$25,000 would be applied entirely against the next tax bill with any excess refunded. Credits over \$25,000 would be applied over three years, if necessary, with any excess refunded in the third year.

Since current law already addresses the payment of taxes for amended returns filed after July 15<sup>th</sup>, the additional six months granted by this bill to file an amended return should have no impact on current year tax collections. If the longer amendment period encourages the filing of additional amended returns, then subsequent year tax collections could be affected. Under the bill, credits and refunds for amended returns filed more than 6 months after the filing (or extended filing) date would be subject to a reduction of 10%. Also under the bill, interest payments on the credit amounts would not be required.

In addition, the three year application period for overpayment credits that exceed \$25,000 could help to spread the credits (or collection reductions) over a longer period of time before a refund, if any, would have to be made.

*White County Commission & Promotion Fund:* The White County innkeeper's tax would generate an estimated \$181,570 in CY 2011, \$231,030 in CY 2012, and \$243,340 in CY 2013 at a tax rate of 5%.

(Currently, the tax rate is 3%.) Portions of the revenue would be deposited into the newly created promotion fund and the existing lake enhancement fund based on the formulae detailed in the background section below. The following table shows the possible distribution of revenue that could occur at a tax rate of 5%.

<b>White County Innkeeper's Tax: Total Revenue and Distribution at a Tax Rate of 5%</b>			
<b>Calendar Year</b>	<b>Lake Enhancement Fund</b>	<b>Promotion Fund</b>	<b>Total Revenue at 5% Rate</b>
2011	\$108,940	\$72,630	\$181,570
2012	\$138,620	\$92,410	\$231,030
2013	\$146,000	\$97,340	\$243,340

*Nashville Food and Beverage Tax Sunset:* The bill would extend the sunset provision on the Nashville Food and Beverage Tax by ten years to January 1, 2022. Tax revenues are used for construction or renovation of Nashville public parking and restroom facilities. The tax generated \$137,023 in FY 2010.

*Port Authority Property Taxes:* Under current law, the DLGF may cancel property taxes assessed against real property owned by a county, township, city, or town. This provision would also permit the DLGF to cancel taxes assessed against real property owned by a municipal or county port authority.

The Hammond Port Authority received property tax bills for \$26,272 in 2010. This provision would allow, but not require, the DLGF to cancel these bills. If the bills are cancelled, the expected taxes would be forgone by the affected taxing units. The fiscal impact would depend on DLGF action.

*Property Tax Credit Appeals:* Under current law, a taxpayer may file a petition to correct errors claiming that the taxes are illegal, or that there was a mathematical error in the assessment or that the taxpayer was not given credit for an exemption or deduction through a tax official's error. In addition, this bill would permit error correction of a circuit breaker credit or any other type of credit that is incorrect because of a tax official's error. Any correction of a credit under this bill would require approval from at least two of the following officials: The township assessor, county assessor, and county auditor. Taxpayers would be permitted to appeal any determination concerning property tax credits made by an assessing official or PTABOA to the IBTR.

*Maximum Permissible Levies - Calculation Methodology:* For civil taxing units that are not located in a CAGIT adopting county, the unit's maximum levy for a year under current law is equal to the previous year's levy, plus one-half of the previous year's unused levy authority, all multiplied by the assessed value growth quotient (AVGQ). The AVGQ is equal to the six-year average increase in Indiana nonfarm personal income. There is also an adjustment of up to 15% for taxing units that have annexed new area into the unit. Taxing units whose AV is growing at rate that is at least 2 percentage points above the statewide AV growth percentage may appeal for an increase in the calculated maximum levy.

The formula for civil taxing units that are located in a CAGIT adopting county begins with formula above but contains adjustments related to the portion of CAGIT revenue that is designated for property tax replacement.

Current law requires that the revenue from a 0.25% tax rate be used in a CAGIT county as local property tax replacement credits (LPTRC) distributed to all civil taxing units and school corporations in the county. This bill does not change this requirement. The remaining CAGIT revenue after LPTRC distributions is distributed to the civil taxing units in the county as certified shares. Current law also requires that a portion of certified shares must be used to reduce the maximum levy. The portion of certified shares required to be used to reduce the maximum levy is based on the adopted CAGIT rate, the amount of certified shares used for levy replacement the county's base year, the shares used in the previous year, and the amount received by the unit from federal revenue sharing in 1985.

This bill removes the requirement that part of certified shares must be used to reduce the maximum levy and all of the related calculations. For current CAGIT counties, the maximum levy limits under the bill would be based on prior maximum levies that already reflect the use of the certified shares to reduce the maximum levy and as a result would continue supplementing the levy with part of their certified shares. In the future, however, new CAGIT counties, if any, would not have this restriction on the use of certified shares. New CAGIT counties would still be bound by the requirement to use revenue from a 0.25% tax rate as LPTRC. Counties that increase their CAGIT rate would not have restrictions on the use of the added certified shares.

There are 56 counties that have adopted CAGIT and 8 counties that do not currently impose CAGIT or COIT. The 8 nonadopting counties may adopt CAGIT at any time under current law. Fifty counties currently impose CAGIT at the 1% maximum rate, 4 counties impose a 0.75% rate, and 2 counties impose the tax at 0.50%. These rates are for legacy CAGIT and do not include additional authorized rates such as for jail operations.

The DLGF interprets current law and this bill as to include LPTRC in the calculation of maximum levies. So any rise or fall in LPTRC amounts that result from changes in CAGIT revenue would be reflected in the maximum levy just as they are currently. The rise or fall of certified shares used as levy replacement under current law has only a small effect on the maximum levy. The removal of certified shares from the maximum levy calculation would have a minimal impact. Overall the calculation change would have little impact on CAGIT counties and no impact on non-CAGIT counties.

*Maximum Permissible Rates - Rate Controlled Funds:* Under current law, the maximum tax rate for a rate-controlled fund, such as a cumulative fund, is adjusted each year to negate the effects of assessed value (AV) increases due to general reassessments or annual adjustments. When AV increases for these reasons, the rate is reduced so that the rate will produce the same tax amount on the same property. Beginning with taxes payable in CY 2012, this bill would increase the rate if the AV is *reduced* due to general reassessments or annual adjustments. Currently, AV reductions cause a loss in tax revenue from the rate-controlled funds. Under this bill, the revenue would remain level.

*(Revised) Maximum Permissible Levies - School Bus Replacement:* Under current law, the School Bus Replacement Fund is a levy-controlled fund. The levy limit depends on the estimated cost to replace the school's bus fleet over a 12-year period. Under this bill, the DLGF would set the maximum levy for taxes payable in CY 2012 based on reasonable needs and whether the school corporation transferred money from the fund to the rainy day fund in a previous year.

In CY 2011, the school bus replacement levy totaled \$105.3 M (Not including schools in LaPorte County). From CY 2006 to CY 2011, the average annual increase in the levy was 6.3%. Current estimates for the AVGQ are 2.8% for taxes payable in CY 2013 and 2.4% in CY 2014. The growth in school bus replacement levies could be curtailed under this provision.

*Tax Statements:* Under current law, the amount billed under a provisional tax statement equals 50% of the previous year's taxes, subject to adjustments for new construction, damage to the property, and changes in credits, deductions, or local option income taxes. A reconciling tax statement also must indicate that liability for delinquent taxes and special assessments may appear on a provisional tax statement for the first installment.

Under this provision, the adjustments to both provisional tax bills and reconciling tax bills may also include current year special assessments and may exclude special assessments due in the previous year, but not due in the current year. Both the provisional and reconciling bills could include delinquent taxes and special assessments, penalties, and interest.

*Tax Distribution For Funds Exempt From Circuit Breaker:* Under current law, property tax levies imposed (1) as a result of a referendum, and (2) to service pre-2009 debt in Lake and St. Joseph counties, is not currently considered when calculating a taxpayer's circuit breaker credit. When property tax collections are distributed to a taxing unit's funds, current law states that any reduction in collections must be applied to funds other than debt service and lease rentals.

Beginning in CY 2010 under this bill, the full amount of referendum levy and other exempt levy collections would be deposited into the proper fund, without regard to circuit breaker losses. Circuit breaker losses would be apportioned only among the non-exempt funds. So, circuit breaker losses would affect existing debt funds in counties other than Lake and St. Joseph Counties but would not affect referendum funds or pre-2009 debt funds in Lake and St. Joseph counties. In addition, this provision would direct taxing units to make appropriations from other funds to pay debt service obligations if the available amount in the debt service fund is insufficient because of circuit breaker losses.

*(Revised) Personal Property:* For taxes payable in 2011 and 2012 under this provision, the cost of personal property acquired by an affiliate taxpayer under the TARP program that is used to determine assessed value is 70% of the historical cost of the assets. The 30% valuation floor would not apply to the valuation of these assets.

There is at least one taxpayer, in Howard County, that was acquired under TARP and had an assessed value reduction greater than 30% for taxes payable in 2011. The Pay 2010 gross AV was \$217.9 M and the Pay 2011 gross AV was \$7.5 M, a 96.6% reduction. If the cost is reported at 70% of historical cost, up to \$145M could be added to the gross AV or up to \$134.9 in net AV could be added to the tax base. The additional AV would generate up to \$4.3 M in additional property tax in 2011. In 2012, the additional AV would reduce tax rate and cause a shift of property taxes to the affected taxpayer from all other taxpayers. In addition, the lower tax rate would reduce circuit breaker losses for the taxing units that serve the property.

*Exclusion of Interest on State and Local Bonds:* By eliminating the exclusion for interest income from state and local bonds (except those issued by Indiana or Indiana local governments), the would significantly increase taxable income. Consequently, some counties imposing local option income taxes could potentially experience a substantial increase in revenue from these taxes. Based on the current average LOIT rate of about 1.3%, LOIT collections on a statewide basis could potentially increase by about \$14.6 M annually. The distribution of this revenue gain across counties is unknown, however.

*Redevelopment Financing:* This bill would allow local governments to utilize certified shares from CAGIT or distributions from CEDIT for redevelopment financing. Current statute allows distributive shares of the county option income tax (COIT) to be used for this purpose. Any impact would depend upon local action.

*Regional Development Authorities:* The bill provides that counties or municipalities forming regional development authorities during FY 2012 and FY 2013 will receive transfers equal to the amount that would be distributed from a CEDIT rate of 0.025%. Current statute provides that members of regional development authorities will receive transfers equal to the amount that would be distributed from a CEDIT rate of 0.05%.

Currently, the Northwest Indiana Regional Development Authority is the only regional development authority in Indiana.

*Public Safety LOIT:* Under current law, counties may adopt a public safety LOIT if they have also adopted either the property tax freeze LOIT or the property tax credit LOIT. The maximum income tax rate is 0.50% in Marion County and 0.25% in all other counties. Revenue from the public safety LOIT is distributed to the county taxing unit and municipalities based on the total levies of the eligible taxing units. Under this bill, a county or municipality could only receive a distribution if that unit is carrying out or providing a public safety purpose.

Also under this provision, a fire department, volunteer fire department, or EMS provider that provides services within the county and is operated by or serves a taxing unit that does not receive a public safety LOIT distribution may apply to the county council or county income tax council for a distribution from the public safety LOIT. If approved, the council may adopt a resolution that specifies the amount to be distributed to the applicant in the following year. The resolution would apply to only one year. A distribution under this provision would proportionately reduce the distributions made to the county unit and municipalities. The fiscal impact would depend on local action.

Background Information. Twenty counties have imposed a public safety LOIT in 2011 with a total certified distribution of \$93.1 M. Of these 20 counties, 16 have adopted the tax under the CAGIT statute and 4 have adopted under the COIT statute. In CY 2011, counties will receive \$68.6 M while municipalities will receive \$24.5 M from the public safety LOIT.

*Local Option Dog Tax:* The bill would protect the revenue stream of a county or municipal ordinance adopted after December 31, 2006, and before February 1, 2007, that does not conform with the county option dog tax law (IC 6-9-39). Out of 52 Indiana counties surveyed, six have adopted a dog tax under IC 6-9-39. At least one county has a domestic animal (including dogs) ordinance in effect after June 30, 2006 that does not conform to IC 6-9-39.

*Marion County Tax Levy:* This provision would allow Marion County to impose an additional property tax levy in CY 2012 only. The levy increase would be limited to the difference between (1) the amount paid for child services after 2008, and (2) the December 31, 2008 unencumbered balance in the county's family and children's fund plus delinquent tax payments that would have been deposited into the fund if it had not been repealed. Property taxes collected from this levy would be deposited into the county general fund.

The potential levy increase is about \$5.8 M in CY 2012. The levy increase would increase tax rates and could possibly increase circuit breaker losses for taxing all units in the county in areas where the circuit breakers have been triggered.

*Maximum Levy Adjustment - Washington Township, Allen County:* This provision would permit Washington Township to petition the DLGF for an increase to the county maximum levy effective for all years beginning with CY 2012. The increase would be limited to the difference between (1) the township's maximum levy in the year in which it used cash balances to reduce the levy, and (2) the township's 2011 maximum levy. If

petitioned, the DLGF would be required to make the adjustment.

A levy increase, if granted, would increase tax rates and could possibly increase circuit breaker losses for taxing all units located in the same taxing districts as the township and where the circuit breakers have been triggered.

*Maximum Levy Adjustment - City of Goshen:* This provision would direct the DLGF to increase the city of Goshen's maximum levy for each year beginning in CY 2012. The increase would equal the difference between (1) the city's 2009 cost for pre-1977 public safety pensions, and (2) the amount of state funds received in 2009 to fund those pension payments.

The potential levy increase is about \$300,000 per year. The levy increase, if granted, would increase tax rates and could possibly increase circuit breaker losses for taxing all units located in the same taxing districts as the city and where the circuit breakers have been triggered.

*Maximum Levy Adjustment - Jefferson County:* This provision would permit Jefferson County to petition the DLGF for an increase to the county maximum levy. The DLGF could grant an increase if the Department finds that the county experienced a revenue shortfall because of an erroneous estimate of the effect of the supplemental standard deduction. Any increase would be limited to \$300,000. The levy increase, if granted, would increase tax rates and could possibly increase circuit breaker losses for taxing all units in the county in areas where the circuit breakers have been triggered.

*Maximum Levy Adjustment - Lake Central Schools:* This provision would permit the Lake Central School Corporation to request that the DLGF make an adjustment to the school's transportation fund maximum levy. The amount of the adjustment may not exceed \$700,000. If requested, the DLGF would be required to make the adjustment for 2012. The new levy would be the basis for the levy in future years. The levy increase would increase tax rates and could possibly increase circuit breaker losses for all taxing units located in the same taxing districts as the school corporation and where the circuit breakers have been triggered.

(Revised) *TIF:* Under current law, a redevelopment commission may designate a "designated taxpayer" in a TIF district. The taxes paid on the incremental assessed value of the business personal property that is located on the designated taxpayer's site is allocated to the TIF district. The commission may only designate a taxpayer if the taxpayer's property primarily consists of industrial, manufacturing, warehousing, research and development, processing, distribution or transportation related projects. In addition, this provision would allow the owner of regulated amusement devices to be a designated taxpayer.

This provision could create an increase of revenues to affected TIF areas. The capture of AV means that the AV would not be used to broaden the tax base. Therefore, tax rates would not decrease as they would normally with the infusion of new value. The actual impact depends on the level of investment and whether the investment would have been made with or without this provision.

Under current law, a redevelopment commission that wishes to expand its TIF allocation area must either get approval from the IEDC or make a finding that the existing area does not generate enough revenue to meet its obligations. The bill would remove these requirements.

(Revised) *Fire Protection Territories:*

Tax Rates. Under current law, the legislative bodies of at least two contiguous taxing units may

establish a FPT. All units involved in the FPT are participating units, one of which is the provider unit. During the first three years of the territory's existence, the participating units each impose a property tax levy to support the FPT. After three years, the provider unit imposes a levy and tax rate upon all of the property in the FPT and the other participating units' levies for fire protection are eliminated. This bill restates the ability to impose either a uniform tax rate throughout the territory or different tax rates for each participating unit.

Voting. Under this provision, a member of a legislative body would have to abstain from voting on a proposed ordinance or resolution authorizing the taxing unit to become a participating unit in a FPT if the member is also an employee of another participating unit in the FPT, or a taxing unit proposing to become a participating unit in the FPT.

*(Revised) Transfer of Property to Exempt Entity:* Under current law, a homeowner's property tax deductions do not apply to taxes payable in the following year if the property is sold after March 1st and by December 31st. If the buyer is a qualifying homesteader, the buyer's deductions are effective for taxes payable in the following year.

Beginning with taxes payable in CY 2012 under this bill, the residential deductions that belonged to the seller and the 1% circuit breaker cap for homeowners would continue for property taxes payable in the following year if the property is sold to a buyer that is granted a property tax exemption for the next assessment date.

The buyer is responsible for paying the property tax in the year after the sale even though the property will be tax exempt in later years. Currently, the tax amount that the buyer must pay in the year after the sale does not reflect the homeowner's deductions or the 1% cap, so the tax amount for that one year is higher than it was in previous years. Under this provision, the tax amount would be consistent with the prior year tax bill.

**State Agencies Affected:** Department of Local Government Finance; Indiana Board of Tax Review; Indiana Economic Development Corporation; Department of Revenue; State Board of Accounts; Legislative Council; State Board of Education; Commission for Higher Education; Indiana Finance Authority; Department of Workforce Development; State educational institutions.

**Local Agencies Affected:** County and municipal fiscal bodies; County and township assessors; County auditors; Civil taxing units and school corporations; Fire departments and EMS providers; Fire Protection Territories; White County, Tippecanoe County (Wabash River Enhancement Corporation); Town of Nashville, Clark and Floyd County Innkeeper's Tax Board of Managers; Lake County Convention and Tourism Board; Counties with local option income taxes; Counties and second class cities establishing regional development authorities; Hammond Port Commission; Marion County; Washington Township in Allen County; City of Goshen; Jefferson County,

**Information Sources:** White County Treasurer's Office, U.S. Bureau of Census; Legislative Services Agency and Association of Indiana Counties surveys of counties; OFMA Income Tax Database; OFMA Property Tax Database; Eric Shields, IEDC, 317-234-3997; Todd Hassee, DOR, 317-232-8039; Richard Swallow, ATC 317-232-2451; Micah Vincent, DLGF, 317-232-3777; State Budget Agency Reports of Certified Distributions, July 30, 2010 (COIT) and November 24, 2010 (CAGIT), <http://www.in.gov/sba/2363.htm>.

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